THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO.21973 OF 2005

Dated 7th October 2005

Between:

Anasuri Venkata Rao S/o.Appanna & others

…Petitioners

And

The Special Collector (Land Acquisition)

Indirasagar Project, Rajahmundry;,

East Godavari District.

…Respondent

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O R D E R:

The petitioners are the owners of agricultural lands in certain survey numbers of Tetagunta village, Tuni Mandal, East Godavari District. The Special Collector (Land Acquisition), Indira Sagar Project, Rajahmundry, the respondent herein, issued notification, dated 31.8.2005, under Section 4(1) of the Land Acquisition Act, for short "the Act", proposing to acquire the lands of the petitioners, for the purpose of the said project. He dispensed with the enquiry under Section 5-A, by invoking Section 17(4) of the Act. Petitioner challenges the invocation, on several grounds.

Sri K.V.Satyanarayana, learned counsel for the petitioners, submits that having regard to the purpose, for which the land is proposed to be acquired, the

respondent cannot be conferred with the powers of Land Acquisition Officer, to issue notification under Sections 4(1) and 6 of the Act. He contends that dispensing with the enquiry under Section 5-A of the Act cannot be sustained, inasmuch as there does not exist such an urgency, as to deny the only protection to a citizen, under the Act.

Learned Government Pleader for Land Acquisition, on instructions, submits that the State Government had empowered the respondent to exercise the powers of a District Collector, as defined under Section 3-C of the Act. He further contends that the urgency clause, under Section 17(4) of the Act, was invoked, having regard to the fact that the land is immediately needed to bring the project into existence.

Two principal contentions are urged in this writ petition. The first is, as to the competence of the respondent to issue notification under Sections 4(1) and 6 of the Act. Learned Government Pleader submits that the Government has issued a notification, conferring the powers of the Collector, upon the respondent. The said notification is not readily available. The question as to whether the respondent can discharge the functions of a Collector, for the purpose of the said project, is left open to be considered, at appropriate stage. For the present, it has to be proceeded, as though he has got the power.

As far as the second contention is concerned, it needs to be observed that the only protection that a citizen is accorded in the matter of compulsory acquisition of land under the Act, is an enquiry under Section 5-A of the Act. If such an enquiry is conducted, the owner of the land would be in a position to point out his grievance. Ultimately, it is for the State to take a decision whether to proceed with the acquisition, or to drop it, in the light of the objections, raised by the land owner. The construction of an irrigation project is not something which can take place overnight, or that it takes below 30 days, the time for conducting enquiry under Section 5-A of the Act. Basically, the urgency clause under Section 17(4) of the Act is intended to be invoked in cases, where there is a sudden change of course of a river, or where the land is immediately needed for restoration of a road, or railway track, etc. Any project is preceded by an elaborate preparatory work, such as, planning, resource

mobilization, grounding, etc. It is not as if the necessity to acquire the land of the petitioner arose overnight. Mechanical invocation of urgency clause may render the very enquiry, contemplated under Section 5-A of the Act, otiose.

On this short ground, the writ petition is allowed, to the extent of setting aside the notification issued under Section 6 of the Act, insofar as it relates to the land of the petitioner. It is left open to the respondent, to conduct enquiry under Section 5-A of the Act and take further steps, duly considering the objections that may be raised by the petitioner. There shall be no order as to costs.

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7th October 2005

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